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IN THE SUPREME COURT
STATE OF ARIZONA

In the Matter of)	
)	Supreme Court No. R-17-0002
PETITION TO AMEND THE)	
ARIZONA RULES OF)	COMMENT
CRIMINAL PROCEDURE)	
_____)	

Pursuant to Rule 28 of the Arizona Supreme Court, David K. Byers, Director of the Administrative Office of the Courts (AOC) submits this Comment addressing Form 7 of Criminal Rule 41, the Appearance Bond form.

In December 2016, this Court approved amendments to Form 7, effective April 3, 2017, as sought by a rule change petition filed by the Supreme Court Task Force on Fair Justice for All (R-16-0041). In the process of implementing the new form statewide, it has come my attention that one long-time feature of Form 7 has become unworkable and unnecessary: the required notarization appearing on page two of Form 7. In fact notarization is unnecessary in the context in which this form is executed by the defendant, as the defendant's identity is already known; additionally, at least some courts do not have a notary public present in the

courtroom to notarize the form. Therefore, the AOC is requesting the Court to replace the notary block with an oath or affirmation under penalty of perjury, along with the signature of either a judicial officer, clerk, or notary. The proposed change is similar to the signature block used for the statewide fee deferral and waiver form required by ACJA § 5-206 and Administrative Directive 2015-03.

Although the rule change petition in this matter does not address any of the forms attached to the rules of criminal procedure, this Comment is intended as the most efficient means of submitting this minor amendment for the Court's consideration in a manner that will allow for its expeditious adoption. The only changes proposed appear on the second page of the attached Form 7.

Respectfully submitted this 19th day of May, 2017.

/S/
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_____ COURT _____ County, Arizona

STATE OF ARIZONA Plaintiff -VS- _____ Defendant (FIRST, MI, LAST)		APPEARANCE BOND
Booking Number	Date of Birth	

WARNING TO DEFENDANT AND DEFENDANT'S SURETY (if any)

If defendant fails to appear at _____ at _____ a.m./p.m. on _____, 20____ and at any other hearing, or fails to follow any other court-ordered condition of release during the pendency of the case, **THIS BOND MAY BE FORFEITED** and the proceedings begun without defendant. If convicted, defendant will be required to appear for sentencing. If defendant fails to appear at sentencing, defendant may lose the right to a direct appeal.

Amount of appearance bond ordered: \$ _____

TYPE OF APPEARANCE BOND ORDERED:

- ☐ **UNSECURED APPEARANCE BOND:** Defendant and defendant's surety, _____ (if none, so state) hereby promise to pay the State of Arizona the amount of the bond ordered if defendant fails to comply with any condition of release.
- ☐ **DEPOSIT BOND:** Defendant hereby deposits with the Clerk of the Court _____% of the total amount of the bond, with the remainder of \$ _____ as an unsecured appearance bond. Defendant and defendant's surety, _____ (if none, so state) hereby promise to pay the State of Arizona the full amount of the bond ordered if defendant fails to comply with any condition of release. The deposited amount of the bond will be returned to the defendant, if defendant complies with all conditions of release.
- ☐ **SECURED APPEARANCE BOND:** Defendant hereby deposits with the Clerk of the Court cash or property having a value equal to or greater than the full amount of the bond.

Depositor or Professional Bondsman: _____

Email address: _____

Address: _____

Phone number: _____

Avowal of non-professional surety (if applicable): _____, surety for the defendant, hereby swears (or affirms) that the surety is not an attorney or person authorized to take bail, and that the surety owns property in this state (or is a resident of this state owning property) worth the amount of this bond, exclusive of property exempt from execution and above and over all liabilities, as detailed in Attachment A.

- ☐ **CASH BOND:** Defendant hereby deposits cash equal to the full amount of the bond with the Clerk of the Court. The cash deposited will be returned to defendant, if defendant complies with all conditions of release.

~~ACKNOWLEDGEMENTS~~ OATH OR AFFIRMATION

I declare under penalty of perjury that the information I have provided on this form and in any attachments is true and correct.

Date

Defendant

State of Arizona _____)

Subscribed and sworn to before me on

_____) ss.

County of _____)

My Commission Expires

Notary Public

Date

Judicial Officer, Deputy Clerk or Notary Public

My Commission Expires/Seal:

Approved:

Date

Surety or Authorized Agent

_____ COURT [Precinct _____] _____ County, Arizona

FORM 7 ATTACHMENT A

SPECIFICATION BY SURETY OF PROPERTY CERTIFIED IN APPEARANCE BOND

_____, surety on the attached appearance bond certifies that the surety owns the following properties, subject to the stated exemptions and liabilities, and to the stated outstanding appearance bonds entered into by the defendant.

I. Properties, less Exemptions and Liabilities. Value or Amount

	Items of Property		
(1)	_____	_____	
	Less _____	_____	
	Net _____	_____	_____
(2)	_____	_____	
	Less _____	_____	
	Net _____	_____	_____
(3)	_____	_____	
	Less _____	_____	
	Net _____	_____	_____
(4)	_____	_____	
	Less _____	_____	
	Net _____	_____	_____
Total		_____	\$ _____

II. Other Outstanding Liabilities or Exemptions.

(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
Total			\$ _____

III. Other Outstanding Appearance Bonds.

(1)	_____	_____	_____
(2)	_____	_____	_____
(3)	_____	_____	_____
(4)	_____	_____	_____
Total			\$ _____

IV. Total Property in Excess of Liabilities, Exemptions, and Outstanding Appearance Bonds (I less II and III).

\$ _____